

are doing things that are going to undermine the status of small businesses in America, as they are struggling to survive. They are struggling to survive. We know that. We have had an abundance of hearings in the Small Business Committee. As ranking member of the Small Business Committee, I can tell you, we hear it time and again repeatedly. They are desperate. They need our support. We cannot hinder their ability to survive in this very tough, unprecedented environment.

So if we are depending on them to create jobs, then I think we better think very seriously about whether to support my amendment. I hope it would not be rejected. I hope it will be supported. There is no reason, there is no rationale, there is no logical explanation as to why the Treasury Department—of all the Departments, frankly, we are here because the Treasury Department did not provide the necessary and effective oversight of financial institutions—we are dealing with a financial regulatory reform bill, so I cannot imagine rejecting something that has been tried before and has worked so effectively.

That is what I am asking, that we would allow my amendment to be adopted. Because, as you can see, this amendment is supported overwhelmingly by critical small business organizations, because they understand the reality. They understand the net effect of what is going to happen. They need this support. This is not a minimalist amendment. It has real consequences, if we fail to adopt it. That is the fact. That is reality that small businesses are facing all across America.

So when we are creating this new entity, this Consumer Financial Protection Bureau, that literally consumes hundreds of pages in the pending legislation, are we not saying we want to make sure, when they are drafting those rules, we are going to consider how it will affect small businesses on a day-to-day basis? Because that is what they are going to live with.

By the way, I think we all know who pays more for regulatory compliance. It is not the large corporations. It is the small business.

In the past, we think about Sarbanes-Oxley. I know there is an amendment that has been filed that has been offered by the Senator from Texas and the Senator from Louisiana that will “spare,” as it says in this Wall Street Journal editorial, “the smallest public companies from the worst bureaucratic horrors of the 2002 Sarbanes-Oxley law.” They said:

This is one reason the two Senators aim to exempt companies with less than \$150 million of shares held by the public from “internal-controls” audits.

Because of the indirect costs, as well as the direct costs, they said that:

[T]he average public company pays more than \$2 million per year complying with the law’s Section 404. The indirect costs may be much greater . . .

The indirect costs are even greater from Sarbanes-Oxley. Small firms pay

45 percent more in regulatory compliance costs than larger firms, according to the Office of Advocacy within the Small Business Administration.

That is the point. So on one hand, we are saying: Well, in financial regulatory reform, we should exempt small public companies because of the bureaucratic hindrance that Sarbanes-Oxley has provided. So there is another example of what the effects are, the unintended consequences, when rules have a disproportionate effect on small businesses. That is what has happened in that instance.

So these are legitimate and valid issues based on reality, based on the experiences of small businesses, what they have had to already endure. So why compel them to have to further endure another regulatory nightmare and quagmire that might ensue as a result of this bureau? We are asking to take an intermediate step: 60 days. Somebody is saying 60 days is too much time to give consideration to the well-being of small businesses in America?

Well, we are offering amendments that say: Gee, we ought to exempt the smallest companies because of what occurred under Sarbanes-Oxley, what it has done with the unintentional effects. We all know the adverse consequences that can emanate and result from legislation that becomes law. So let’s be attentive and sensitive to those issues at the forefront of this process. That is what this amendment is all about. I would hope there would be strong support for my amendment because there truly is overwhelming support from all of these organizations and more that are represented on these charts.

I ask unanimous consent to have printed in the RECORD a list of organizations in support of my amendment, as well as a number of letters that have been sent from small business organizations declaring that it is an imperative that this amendment be accepted because of the concern, the abiding concern, of the small businesses community across this country that they are going to suffocate under this rule-making process if they do not have a voice.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS IN SUPPORT

Associated Builders and Contractors; Association of Kentucky Fried Chicken Franchisees; Hearth, Patio & Barbecue Association; Hispanic Leadership Fund; Independent Electrical Contractors; Institute for Liberty; International Franchise Association; National Association for the Self-Employed; National Federation of Independent Business, which is “key-voting” in support of our amendment and opposing the majority’s side-by-side; National Lumber and Building Material Dealers Association; National Restaurant Association; National Roofing Contractors Association; National Small Business Association; Printing Industries of America; S Corporation Association; Small Business & Entrepreneurship Council; Society of American Florists; Society of

Chemical Manufacturers & Affiliates; Tire Industry Association; U.S. Chamber of Commerce; United States Black Chamber; United States Hispanic Chamber of Commerce; and Women Impacting Public Policy.

MAY 12, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

Hon. CHRIS DODD,
Chairman, Committee on Banking, Housing &
Urban Affairs, U.S. Senate, Washington,
DC.

Hon. RICHARD SHELBY,
Ranking Member, Committee on Banking, Housing &
Urban Affairs, U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER, MINORITY LEADER, CHAIRMAN DODD, AND RANKING MEMBER SHELBY: The undersigned organizations representing millions of American small business owners are writing to urge that the Senate consider the Small Business Fairness and Regulatory Transparency Amendment (S. Amdt. 3883) sponsored by Senator Pryor and Senator Snowe as part of the Senate’s deliberations on S. 3217, Restoring American Financial Stability Act of 2010.

As you know, new jobs primarily come from the small business sector of our economy. Small business has created about two of every three net new jobs in the United States since at least the early 1970s. And nearly all job creation since 1980 has occurred in firms less than five years old. In fact, data from the 1990’s show small business are the only sector producing jobs coming out of a recession. The amendment offered by Senators Pryor and Snowe is an effort to prevent unintended consequences by a new agency that could harm the small business sector.

According to the U.S. Small Business Administration, small firms shoulder a 45 percent higher burden to comply with federal regulations than their larger business competitors. This economic distortion can be eased when agencies carefully consider how their regulations will impact small firms, which is why delegates to the 1995 White House Conference on Small Business called for direct small business participation in the rulemaking process. That recommendation from the White House Conference was a key provision in the Small Business Regulatory Enforcement Fairness Act (SBREFA), signed by President Clinton in 1996. The amendment offered by Senators Pryor and Snowe applies the same standards of transparency and small business consultation found in SBREFA to the Consumer Financial Protection Bureau (hereinafter referred to as the “Bureau”).

Additionally, S. Amdt. 3883 calls upon the Bureau to consider how its rules will impact small business access to credit. Almost 90 percent of the nation’s 26 million small businesses use some form of credit. And, economists have raised concerns that actions by the Bureau will tighten the credit squeeze, raising interest rates and curbing job growth. The amendment offered by Senators Pryor and Snowe provides assurance that small business access to credit is a top consideration by Bureau officials as they take on the important task of overseeing our financial sector.

Small business is a critically important sector. America needs their job creation strength to bring down unemployment and their innovative strength in a global marketplace. We know you share our desire to take every step necessary to protect Main Street while you are trying to fix the practices on